

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

RICHARD ALEXANDER MURDAUGH,

Plaintiff,

v.

WASHAVA MOYA, in her official capacity
as Interim Director Alvin S. Glenn
Detention Center;

RICHLAND COUNTY GOVERNMENT;

Defendants.

Case No. 3:22-cv-0608-CMC

Motion for Leave to File Brief as *Amicus Curiae*

The American Civil Liberties Union Foundation of South Carolina (ACLU of South Carolina) respectfully requests leave to file, within fourteen days of any dispositive motion, a brief in support of Plaintiff Richard Alexander Murdaugh's claim that unfettered public dissemination of a pretrial detainee's recorded communications violates the Fourteenth Amendment to the United States Constitution and Article I, Sections 3 and 10 of the South Carolina Constitution. *See* ECF No. 75 (Plaintiff's Motion for Leave to Amend the Complaint), 75-1 (Proposed Amended Complaint).

As the state's preeminent civil rights and civil liberties organization, ACLU of South Carolina is in a unique position to provide briefing on the legal standards that govern Mr. Murdaugh's claims and to articulate the far-reaching harms that will result if Defendants'

conduct is not enjoined. *Amicus* believes that such briefing would aid the Court's resolution of this matter and would not cause any undue delay in the proceedings.

Counsel for Plaintiff Murdaugh consents to this motion. Counsel for Defendants Moye and Richland County do not consent.

Identity and Interest of *Amicus Curiae*¹

The ACLU of South Carolina is a nonprofit nonpartisan organization that advocates for civil rights and civil liberties in South Carolina. The ACLU of South Carolina is an affiliate of the American Civil Liberties Union, which is one of the oldest and most effective voices in the nation on issues of speech, privacy, and conditions of confinement. The ACLU and ACLU of South Carolina have appeared as counsel and/or *amicus curiae* in this district, the Fourth Circuit, and the Supreme Court of the United States.

The ACLU and the ACLU of South Carolina have special expertise in the areas of privacy, speech, and conditions of confinement, including at the intersection of these doctrinal areas. *See, e.g., Am. C.L. Union Fund of Mich. v. Livingston Cnty.*, 796 F.3d 636 (6th Cir. 2015) (successfully enjoining unconstitutional jail mail policy); *Prison Legal News v. Berkeley Cnty.*, No. 2:10-cv-02594-MBS (D.S.C.) (obtaining relief against jail policies prohibiting all reading materials except Bibles).

The ACLU and the ACLU of South Carolina routinely advocate for greater government transparency and take an expansive view of federal and state Freedom of Information Acts (FOIA). Because Defendants have invoked South Carolina FOIA as a justification for their conduct, *amicus curiae*'s experience and track record on FOIA matters are additionally useful to the Court. *See, e.g., Am. C.L. Union v. Dep't of Def.*, 322 F. Supp. 3d 464 (S.D.N.Y. 2018) (ordering release of records from CIA under FOIA).

¹ Counsel for *amicus curiae* certifies that no counsel for a party authored this motion in whole or in part, and that no person or entity made a monetary contribution to the preparation of this motion other than *amicus*, its members, and its counsel.

Finally, the ACLU of South Carolina is directly impacted by this litigation. *Amicus curiae* routinely investigates civil rights abuses in South Carolina jails and prisons. Unfettered public dissemination of all recorded messages and phone calls will chill the speech of incarcerated persons and will impede ACLU of South Carolina's ability to correspond with such individuals.

Relief Requested

Wherefore, the ACLU of South Carolina respectfully asks the Court to **grant** leave for it to file an *amicus* brief in this matter. *Amicus curiae* respectfully proposes that its brief would be due not later than fourteen days after the filing of any dispositive motion on Plaintiff's First Amended Complaint.

Respectfully submitted,

Date: December 7, 2022

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SOUTH CAROLINA**

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